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Human rights and terrorism

Report of the Secretary-General**

Summary

The present report, submitted in accordance with General Assembly resolution 59/195, summarizes the replies received to a note verbale sent by the Office of the High Commissioner for Human Rights seeking the views of Member States on the implications of terrorism in all its forms and manifestations for the full enjoyment of all human rights and fundamental freedoms and on the possible establishment of a voluntary fund for the victims of terrorism, as well as on ways and means to rehabilitate the victims of terrorism and reintegrate them into society.

* A/60/150.
** This report was submitted late so as to include the most up-to-date information possible.

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I. Introduction

1. In its resolution 59/195, the General Assembly expressed its solidarity with the victims of terrorism and reiterated its unequivocal condemnation of the acts, methods and practices of terrorism in all its forms and manifestations as activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity and security of States, destabilizing legitimately constituted Governments, undermining pluralistic civil society and having adverse consequences for the economic and social development of States. The Assembly called upon States to take all necessary and effective measures, in accordance with relevant provisions of international law, including international human rights standards, to prevent, combat and eliminate terrorism; called upon States to strengthen, where appropriate, their legislation to combat terrorism in all its forms and manifestations; and requested the Secretary-General to continue to seek the views of Member States on the implications of terrorism for the full enjoyment of all human rights and fundamental freedoms and on the possible establishment of a voluntary fund for the victims of terrorism, as well as on ways and means to rehabilitate the victims of terrorism and to reintegrate them into society.

2. The present report, submitted in accordance with resolution 59/195, summarizes the replies[1] received from the Governments that responded to a note verbale sent by the Office of the United Nations High Commissioner for Human Rights (OHCHR) on 27 May 2005.

II. Replies from Governments

Iraq

[18 July 2005]
[Original: Arabic]

The Government of Iraq is of the opinion that efforts to enhance effective international cooperation in the fight against terrorism must be deployed in the framework of international law and in the light of the obligations of States to uphold human rights principles and international humanitarian law. Iraq rejects the identification of terrorism with any religion, nationality or culture and is of the view that all religions and nationalities must be protected from violations committed on the pretext of combating terrorism. Protection of human rights in the context of counter-terrorism measures also means providing fundamental safeguards such as the independence of judges and the access to a fair trial. With regard to the victims of terrorism, the Government of Iraq supports the establishment, under the auspices of the United Nations, of an international voluntary fund for victims of terrorism and suggests to involve civil society organizations and all humanitarian organizations in a global programme for the rehabilitation of victims of terrorism.

[1] The full text of the replies received are available for consultation in the Secretariat.

Ireland

[21 July 2005]
[Original: English]

The Government of Ireland stated its belief that in order to receive the widest possible support and to be successful in the long term, the fight against terrorism must be conducted in full respect of human rights and fundamental freedoms. Fostering human rights should become an integral part of the fight against terrorism. The causes of terrorism must also be understood and addressed as this is an essential step in its elimination. Combating terrorism must not be used as a pretext to suppress freedom of the press and specifically not as a justification for attacks on individual journalists. Ireland attaches great importance to the work performed by human rights defenders who have become increasingly effective in ensuring greater protection to victims of human rights violations. They also should not be inhibited in their work on the pretext of combating terrorism. The possible establishment of a voluntary fund for the victims of terrorism, as well as on ways and means to rehabilitate the victims of terrorism and to reintegrate them into society, are issues that would require further reflection. It may be that such issues are best dealt with at the national level.

Lithuania

[8 August 2005]
[Original: English]

The Government of Lithuania understands the potential risk of international terrorism and believes that collective efforts to prevent terrorism minimize the possibility of terrorist attacks. Therefore, Lithuania actively cooperates with other States and international organizations and provides assistance in the prevention of terrorism. The Government is of the opinion that in the struggle against terrorism, the rule of law, human rights and fundamental freedoms must be respected. In Lithuania, terrorism is condemned by law and defined as a criminal offence; however, the law does not provide for an explicit legal definition of "terrorist offence". According to the Criminal Code, two groups of crimes can be distinguished: (i) offences such as an act of terror, the provocation of terrorism, hijacking an aircraft or ship and taking hostages that are closely related to terrorism and thus should be considered as terrorist offences in all cases; and (ii) some terrorist crimes falling under the definition of ordinary offences, as, for instance, homicide, and crimes related to firearms and explosives. Only a court can make the determination of whether crimes in the latter group are related to terrorism or not. Article 7 of the Criminal Code on "Criminal liability for crimes specified in international agreements" states that persons who commit crimes abroad shall be criminally liable under the criminal statutes of the Republic of Lithuania. Regarding compensation of victims, Lithuania signed the 1983 European Convention on the Compensation of Victims of Violent Crimes on 14 January 2004. The 1 July 2005 law on compensation for damage inflicted by violent crimes will also implement European Council Directive 2004/80/EC relating to compensation of crime victims. The European Union Framework Decision of 15 March 2001 on the status of victims in criminal proceedings is implemented mainly through the Code of Criminal Procedure of Lithuania. In criminal proceedings, the death penalty cannot

be applied in accordance with Protocols Nos. 6 and 13 to the European Convention on Human Rights, to which Lithuania is a party. The Government recognizes that torture is prohibited and that suspects have the right to a fair trial. It is of the view that it is necessary to strike a fair balance between respect for the rights of the individual and protection of the democratic society, including respect for privacy in the fight against terrorism. The Law on the Compensation of Damage Inflicted by Violent Crimes, which entered into force on 14 July 2005, establishes a Crime Victims' Fund and regulates cooperation with other European Union member States. The Republic of Lithuania does not have a single or special law providing for rehabilitation and reintegration of victims of terrorist acts.

Mexico

[20 July 2005]
[Original: Spanish]

The Government of Mexico reported on ongoing actions by the Ministry of National Defence, and in this context stated that it has circulated to the various regional commanders the international rules relating to protection of human rights in efforts to combat terrorism, as contained in the report drawn up by the Inter-American Commission on Human Rights and approved on 22 October 2002 at the 116th regular session of the Commission. This was done in order to provide the various regional commanders with guidelines for their activities in this field, which relate to specific aspects such as the identification and application of international legal obligations, including the right to life, liberty, personal safety, humane treatment, freedom of expression, due process and a fair trial, the obligation to ensure and respect non-discrimination, the right to the protection of the law, and the situation of migrant workers, asylum-seekers, refugees and other non-Mexicans. Mexico also indicated that the Ministry of National Defence has been implementing within the armed forces a programme for the promotion and strengthening of human rights, whose aims include spreading and boosting a spirit of respect for human rights and international humanitarian law among military personnel, and promoting compliance with the international commitments entered into by Mexico in this area so as to achieve their full realization, in a context of complete respect for the rule of law.

Syrian Arab Republic

[8 June 2005]
[Original: English]

The Syrian Arab Republic emphasized its condemnation of terrorism in all its forms and manifestations as criminal acts violating the sovereignty and security of States. Syria stressed its cooperation with the international community in implementing its resolutions on combating international terrorism. While Syria has no difficulties with the substance of resolution 59/195, it reaffirms its principled position on the importance of convening an international conference, under the auspices of the United Nations, to define terrorism and differentiate between the criminal acts of terrorism and the legitimate right of peoples in their struggle for the realization of their right to self-determination and against foreign occupation.

Turkey

[20 July 2005]
[Original: English]

Turkey reported that terrorism is an act of violence aimed at eradicating basic human rights while threatening public order, security, and the territorial integrity of States. The perception that human rights can only be violated by States is not in conformity with article 30 of the Universal Declaration of Human Rights; terrorists also violate human rights, including the right to life. Terrorism not only impacts negatively on human rights but on the economic and social development of countries. Turkey believes that States should take individual and collective measures to prevent and eliminate terrorism. The events of 11 September showed that no State is immune from terrorism. Further emphasis should be placed on the responsibility of States supporting terrorism directly or indirectly, and Turkey recalls the obligation of States to deny safe haven and immunity to terrorists. Associating terrorism with any particular religion, religious belief, tradition or national culture is unacceptable. Turkey believes that regional and international cooperation to combat terrorism is fundamental. It has been contributing to codification efforts in this field and is party to all 12 United Nations basic international conventions against terrorism. Turkey in principle supports the establishment of a voluntary fund for the victims of terrorism and offers the following issues for further analysis in the process leading to setting up such a fund: (i) the beneficiaries of the fund would be victims of terrorism. The absence of an internationally agreed definition of terrorism and the existence of different approaches to the identification of terrorist organizations can lead to difficulties in deciding who would fall under the category of "the victims of terrorism" in some cases; (ii) in the course of the functioning of the fund, relevant national authorities should be accorded an appropriate role in the application and investigation process. Compensation should also be channelled through relevant national bodies and they should play a role in steps to be taken to reintegrate victims in society; (iii) the question of degree of injury and/or damage would need to be considered in the distribution of resources. On the question of rehabilitation of victims of terrorism and their reintegration into society, two laws in Turkey are relevant, specifically, the Anti-Terror Law (Act No. 3713) and the Law on the Compensation of Losses Resulting from Terrorist Acts and the Measures Taken against Terrorism.

Ukraine

[4 August 2005]
[Original: Russian]

The Government of Ukraine stated that the problem of combating terrorism has been assigned the highest priority for all State institutions and bodies. Ukraine has aimed at bringing domestic legislation into conformity with international law in its efforts to combat terrorism, notably by the adoption by the Verkhovna Rada (Parliament) of the new Criminal Code, notably article 258 on "Terrorist acts", and a special Anti-Terrorism Act. In addition, a programme of anti-terrorist measures for the period 2005-2007 was approved by presidential decree. The adoption of the Anti-Terrorism Act was accompanied by the introduction of changes to the Security Service Act, the Police Investigations Act and the State Border Service Act, as well

as the Code of Criminal Procedure, which enhance the effectiveness of anti-terrorist activity while guaranteeing respect for civil rights in the context of such activity. The Anti-Terrorism Act, in particular, defines basic terms and their meanings, including terrorism, terrorist act, technological terrorism, terrorist activity, international terrorism, terrorist, terrorist group, terrorist organization, anti-terrorism, anti-terrorist operation and hostage. Ukraine noted that article 29 of the Anti-Terrorism Act provides legislative support for the extradition of persons who have participated in terrorist activities. The extradition of foreigners or stateless persons for the purposes of criminal prosecution and the imposition of coercive measures by a foreign State is carried out in accordance with the law and the obligations assumed by Ukraine under the 1957 European Convention on Extradition, the 1977 European Convention on the Suppression of Terrorism and other international treaties containing obligations to which the Verkhovna Rada has subscribed, as well as on a reciprocal basis. As the compensation of victims of terrorism is regulated by the Anti-Terrorist Act (arts. 19 and 20) and is paid from the State budget in accordance with the law, Ukraine considers it unnecessary to set up an additional fund to compensate individuals and corporate bodies that have suffered as a result of a terrorist act. Ukraine supports, at the very most, the setting up of such funds in other States in cases where there is no domestic legislation on the subject. The social rehabilitation of victims of terrorism is carried out for the purpose of ensuring their return to normal life and is also funded under the State budget. Ukraine also indicated that the Ministry of Internal Affairs, within its sphere of competence, is taking a number of steps to prevent manifestations of terrorism while ensuring unconditional respect for human rights and denying safe haven to terrorists.